

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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NICK GIOULES, :  
Plaintiff, :  
-v- : 21 Civ. 6400 (JPC)  
ANTIGUA PHARMACY LLC and BRENDALIS :  
ANTIGUA, :  
Defendants. :  
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ORDER

JOHN P. CRONAN, United States District Judge:

On November 29, 2021, the Court ordered Plaintiff to file a motion for default judgment against Defendants by January 12, 2022.<sup>1</sup> Dkt. 21. On January 11, 2022, Plaintiff filed a letter requesting an extension of time to file a motion for default judgment. Dkt. 23. The next day, the Court granted Plaintiff's request and directed Plaintiff to file his motion for default judgment by February 11, 2022, with any opposition to the motion for default judgment due by March 4, 2022. Dkt. 24. On February 10, 2022, Plaintiff filed his motion for default judgment and accompanying documents. Dkt. 35.<sup>2</sup> On March 3, 2022, David E. Cassidy appeared as counsel for both Defendants in this action. Dkt. 50. On March 4, 2022, Defendants filed an opposition to Plaintiff's

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<sup>1</sup> Defendant Antigua Pharmacy LLC was repeatedly advised that as a limited liability company, it cannot proceed *pro se* and its failure to obtain counsel constitutes a failure to "otherwise defend" under Rule 55(a) of the Federal Rules of Civil Procedure. *See, e.g., City of New York v. Mickalis Pawn Shop, LLC*, 635 F.3d 114, 129-32 (2d Cir. 2011); *Eagle Assocs. v. Bank of Montreal*, 926 F.2d 1305, 1310 (2d Cir. 1991); *McFarlane v. Harry's Nurses Registry*, No. 17 Civ. 6350 (PKC), 2020 WL 1643781, at \*15 (E.D.N.Y. Apr. 2, 2020). As to Defendant Brendalis Antigua, she failed to appear at the October 19, 2021 conference and failed to file an answer to the Complaint by the November 18, 2021 deadline as ordered by the Court. Dkt. 16.

<sup>2</sup> Due to docketing issues, Plaintiff re-filed his default judgment papers on February 24, 2022. Dkts. 46-49.

motion for default. In light of Defendants having retained counsel and their opposition to Plaintiff's motion for default judgment, it is hereby ORDERED that, by March 10, 2022, Plaintiff shall advise the Court whether he still intends to pursue his motion for default judgment and, if not, whether he consents to the vacatur of the defaults entered as to Defendants in this action.

SO ORDERED.

Dated: March 7, 2022  
New York, New York

  
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JOHN P. CRONAN  
United States District Judge